

Assembly Bill No. 1136

Passed the Assembly September 8, 2005

Chief Clerk of the Assembly

Passed the Senate September 7, 2005

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2005, at _____ o'clock ____M.

Private Secretary of the Governor

Second enrollment

CHAPTER _____

An act to amend Sections 37252.8, 37253, 41505, 41506, 42239, and 52890 of, and to repeal Sections 41505.5, 42239, 42239.15, and 52891 of, the Education Code, relating to instruction, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1136, Dymally. Pupil retention block grants.

(1) Existing law authorizes the governing board of a school district and a charter school to offer programs of direct, systematic, and intensive supplemental instruction to pupils enrolled in grades 2 to 6, inclusive, who have been identified as having a deficiency in mathematics, reading, or written expression, as specified, or as being at risk of retention. Existing law authorizes the governing board of a school district and a charter school to offer supplemental instructional programs in mathematics, science, or other core academic areas, as designated, and provides that the maximum entitlement of a school district or charter school for reimbursement for pupil hours of attendance in the supplemental instructional programs shall be calculated pursuant to a formula that is based on 5% of the total enrollment of the school district or charter school for the prior fiscal year multiplied by a specified hourly rate. Existing law makes these authorizations inoperative on July 1, 2005, and repeals them on January 1, 2006.

Existing law establishes a pupil retention block grant, that, commencing with the 2005–06 fiscal year, requires the Superintendent to apportion funds to a school district in the same relative statewide proportion that the school district received in the 2003–04 fiscal year for those programs, among others.

This bill would require adjustment of apportionment for changes in program participation by school districts in the 2004–05 fiscal year. This bill would also delete the inoperative and repeal dates, extending the operation of provisions relating to those programs indefinitely.

(2) Existing law requires the State Department of Education to make an initial allocation of 75% of the allocation for a school

district of block grant funds, and to make the remaining portion of the allocation only after supplemental instructional programs for pupils enrolled in grades 7 to 12, inclusive, who do not demonstrate sufficient progress toward passing the high school exit examination, and programs of direct, systematic, and intensive supplemental instruction to pupils enrolled in grades 2 to 9, inclusive, who have been recommended for retention or who have been retained, have been fully funded, as specified.

This bill would delete the requirement that the department retain the balance of block grant funds until supplemental instructional programs for pupils enrolled in grades 7 to 12, inclusive, who do not demonstrate sufficient progress toward passing the high school exit examination, and programs of direct, systematic, and intensive supplemental instruction to pupils enrolled in grades 2 to 9, inclusive, who have been recommended for retention or who have been retained, have been fully funded.

(3) Existing law requires a school district that received pupil retention block grant funds for dropout prevention and recovery programs in the 2003–04 fiscal year to maintain at least the same number of outreach consultants in the 2004–05 fiscal year. Existing law requires a school district to place consultants 1st in schools that have the highest percentages of pupils eligible for the federal free and reduced price lunch program.

This bill would require a school district that received funds for dropout prevention and recovery programs in the 2004–05 fiscal year to maintain at least the same number of outreach consultants in the 2004–05 fiscal year. The bill would require a school district to place consultants 1st in schools that have at least 50% of pupils eligible for the federal free and reduced price lunch program and that are eligible for specified funding under the federal No Child Left Behind Act of 2001.

(4) Existing law requires a school district and school that submit a school-based motivation and maintenance program plan pursuant to specified provisions of law to include a description of the manner in which it will utilize outreach consultants, as specified. Existing law makes those provisions inoperative on July 1, 2005, and repeals them on January 1, 2006.

This bill would delete the inoperative and repeal dates, extending the operation of those provisions indefinitely.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 37252.8 of the Education Code is amended to read:

37252.8. (a) The governing board of a school district and a charter school maintaining any of grades 2 to 6, inclusive, may offer programs of direct, systematic, and intensive supplemental instruction to a pupil enrolled in grades 2 to 6, inclusive, who meets either of the following criteria:

(1) The pupil has been identified as having a deficiency in mathematics, reading, or written expression based on the results of a test administered under the Standardized Testing and Reporting Program established pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33.

(2) The pupil has been identified as being at risk of retention pursuant to Section 48070.5.

(b) Supplemental educational services offered pursuant to this section may be offered during the summer, before school, after school, on Saturdays, or during intersession, or in a combination of summer school, before school, after school, Saturday, or intersession instruction. Services shall not be provided during the regular instructional day of the pupil. A minor pupil whose parent or guardian informs the school district that the pupil is unable to attend a Saturday school program for religious reasons, or a pupil 18 years of age or older who states that he or she is unable to attend a Saturday school program for religious reasons, shall be given priority for enrollment in supplemental instruction offered at a time other than Saturday, over a pupil who is not unable to attend a Saturday school program for religious reasons.

(c) For purposes of this section, a pupil shall be considered to be enrolled in a grade immediately upon completion of the preceding grade. Summer school instruction may also be offered to a pupil who was enrolled in grade 6 during the prior school year.

(d) An intensive remedial program in reading or written expression offered pursuant to this section shall, as needed, include instruction in phoneme awareness, systematic explicit

phonics and decoding, word attack skills, spelling and vocabulary, explicit instruction of reading comprehension, writing, and study skills.

(e) A school district or charter school shall seek the active involvement of parents and classroom teachers in the development and implementation of supplemental instructional programs provided pursuant to this section.

(f) It is the intent of the Legislature that a pupil who is at risk of failing to meet state-adopted standards, or who is at risk of retention, be identified as early in the school year, and as early in his or her school careers as possible and be provided the opportunity for supplemental instruction sufficient to assist him or her in attaining expected levels of academic achievement.

(g) (1) A school district or charter school that offers instruction pursuant to this section shall be entitled to receive reimbursement in an amount up to 5 percent of the total enrollment of the school district or charter school in grades 2 to 6, inclusive, for the prior fiscal year multiplied by 120 hours, multiplied by the hourly rate for the current fiscal year determined pursuant to subdivision (b) of Section 42239.

(2) The balance of the appropriation made for the purposes of funding programs offered pursuant to this section to serve pupils in grades 2 to 6, inclusive, shall be allocated for reimbursement of pupil attendance in instruction pursuant to subdivision (a) that is in excess of 5 percent, but not in excess of 7 percent, of the enrollment of the school district or charter school for the prior year in grades 2 to 6, inclusive, multiplied by 120 hours, multiplied by the hourly rate for the current fiscal year determined pursuant to subdivision (b) of Section 42239.

(h) Notwithstanding any other provision of law, neither the State Board of Education nor the Superintendent may waive any provision of this section.

SEC. 2. Section 37253 of the Education Code is amended to read:

37253. (a) The governing board of any school district and a charter school may offer supplemental instructional programs in mathematics, science, or other core academic areas designated by the Superintendent of Public Instruction.

(b) The Superintendent of Public Instruction shall adopt rules and regulations necessary to implement this section, including,

but not limited to, the designation of academic areas other than mathematics and science as core academic areas.

(c) (1) The maximum entitlement of a school district or charter school for reimbursement for pupil hours of attendance in supplemental instructional programs offered pursuant to this section shall be an amount equal to 5 percent of the total enrollment of the school district or charter school for the prior fiscal year multiplied by 120 hours, multiplied by the hourly rate for the current fiscal year, as determined pursuant to paragraph (2).

(2) Pupil hours of attendance in supplemental instructional programs offered pursuant to this section shall be reimbursed at a rate of three dollars and fifty-three cents (\$3.53) per pupil hour, adjusted in the 2005–06 fiscal year and subsequent fiscal years as specified in this paragraph, provided that a different reimbursement rate may be specified for each fiscal year in the annual Budget Act that appropriates funding for that fiscal year. This amount shall be increased annually by the percentage increase pursuant to subdivision (b) of Section 42238.1 granted to school districts or charter schools for base revenue limit cost-of-living increases.

(d) To the extent appropriated funding allows, a school district or charter school may enroll more than 5 percent of its pupils, or may enroll pupils for more than 120 hours per year, in supplemental instructional programs offered pursuant to this section, if the total state apportionment to the district or charter school for these programs does not exceed an amount computed equal to 10 percent of the total enrollment of the school district or charter school for the prior fiscal year multiplied by 120 hours, multiplied by the hourly rate for the current fiscal year, as determined pursuant to paragraph (2) of subdivision (c).

(e) Instructional programs may be offered pursuant to this section during the summer, before school, after school, on Saturday, or during intersession, or in any combination of summer, before school, after school, Saturday, or intersession instruction, but shall be in addition to the regular schoolday. Any minor pupil whose parent or guardian informs the school district that the pupil is unable to attend a Saturday school program for religious reasons, or any pupil 18 years of age or older who states that he or she is unable to attend a Saturday school program for

religious reasons, shall be given priority for enrollment in supplemental instruction offered at a time other than Saturday, over a pupil who is able to attend a Saturday school program.

(f) Notwithstanding any other law, neither the State Board of Education nor the Superintendent of Public Instruction may waive compliance with any provision of this section.

SEC. 3. Section 41505 of the Education Code is amended to read:

41505. (a) There is hereby established the pupil retention block grant. The Superintendent of Public Instruction shall apportion block grant funds to a school district in the same relative statewide proportion that the school district received in the 2003–04 fiscal year for the programs listed in Section 41506, adjusted for changes in program participation by school districts in the 2004–05 fiscal year. For purposes of this subdivision, funding received in the 2003–04 fiscal year shall, because of the circumstances of deferrals and deficits, include funding attributable to the 2003–04 fiscal year regardless of the actual date of its receipt.

(b) A school district may expend funds received pursuant to this article for any purpose authorized by the programs listed in Section 41506 as the statutes governing those programs read on January 1, 2004.

(c) For purposes of this article, “school district” includes a county office of education if county offices of education are eligible to receive funds for the programs that are listed in Section 41506. The block grant of a county office of education shall be based only on those programs for which it was eligible to receive funds in the 2003–04 fiscal year.

SEC. 4. Section 41505.5 of the Education Code is repealed.

SEC. 5. Section 41506 of the Education Code is amended to read:

41506. The pupil retention block grant shall include funding previously apportioned to school districts for purposes of the following programs:

(a) Supplemental instruction as set forth in Article 1 (commencing with Section 53025) of Chapter 16, and Chapter 18 (commencing with Section 53091), of Part 28.

(b) Continuation high schools as set forth in Section 42243.7.

(c) High-Risk Youth Education and Public Safety as set forth in Part 26.95 (commencing with Section 47750).

(d) Tenth grade counseling as set forth in Sections 48431.6 and 48431.7.

(e) Opportunity programs as set forth in Article 1 (commencing with Section 48630) and Article 2.3 (commencing with Section 48643) of Chapter 4 of Part 27. The pupil retention block grant shall not include funding apportioned to county offices of education for opportunity schools and programs administered under Sections 48640 and 48641.

(f) (1) Dropout prevention and recovery as set forth in Article 6 (commencing with Section 52890) and Article 7 (commencing with Section 52900) of Chapter 12 of Part 28, Article 3 (commencing with Section 54660) and Article 7 (commencing with Section 54720) of Chapter 9 of Part 29, and Chapter 3.5 (commencing with Section 58550) of Part 31. A school district that received funds pursuant to the programs listed in this subdivision in the 2004–05 fiscal year shall utilize funds received pursuant to this article to maintain at least the same number of outreach consultants as described in Section 52890 that were utilized by the school district in the 2004–05 fiscal year.

(2) A school district shall place consultants in schools that have at least 50 percent of pupils eligible for the federal free and reduced price lunch program and that are eligible for funds under Title I of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.).

(g) Early intervention for school success as set forth in Article 4.5 (commencing with Section 54685) of Chapter 9 of Part 29.

(h) An at-risk youth program operated by the Los Angeles Unified School District that is funded pursuant to Item 6110-280-0001 of Section 2.0 of the annual Budget Act.

SEC. 6. Section 42239 of the Education Code, as amended by Section 8 of Chapter 871 of the Statutes of 2004, is repealed.

SEC. 7. Section 42239 of the Education Code, as added by Section 9 of Chapter 871 of the Statutes of 2004, is amended to read:

42239. (a) For each fiscal year the Superintendent of Public Instruction shall compute funding for supplemental instruction for each school district or charter school by multiplying the number of pupil hours of supplemental instruction claimed

pursuant to Sections 37252 and 37252.2 by the pupil hour allowance specified in subdivision (b) or by a pupil hour allowance specified in the annual Budget Act in lieu of the amount computed in subdivision (b).

(b) Hours of supplemental instruction shall be reimbursed at a rate of three dollars and fifty-three cents (\$3.53) per pupil hour, adjusted in the 2005–06 fiscal year and subsequent fiscal years as specified in this section, provided that a different reimbursement rate may be specified for each fiscal year in the annual Budget Act that appropriates funding for that fiscal year. This amount shall be increased annually by the percentage increase pursuant to subdivision (b) of Section 42238.1 granted to school districts or charter schools for base revenue limit cost-of-living increases.

(c) (1) If appropriated funding is insufficient to pay all claims made in any fiscal year pursuant to Sections 37252 and 37252.2, the superintendent shall use any available funding appropriated for the purposes of reimbursing school districts pursuant to Section 37252 or 37252.2.

(2) If appropriated funding is still insufficient to pay all claims made in any fiscal year pursuant to Section 37252 or 37252.2, the superintendent shall use any available funding appropriated for the purposes of reimbursing school districts for supplemental instruction in the prior fiscal year.

(3) If appropriated funding is still insufficient to pay all claims made in any fiscal year pursuant to Section 37252 or 37252.2, the superintendent shall use any available funding appropriated for the purposes of reimbursing school districts for supplemental instruction in the current fiscal year.

(4) The superintendent shall notify the Director of Finance that there is an insufficiency of funding appropriated for the purposes of Sections 37252 and 37252.2 only after the superintendent has exhausted all available balances of appropriations made for the current or prior fiscal years for the reimbursement of school districts for supplemental instruction.

(d) Notwithstanding any other provision of law, neither the State Board of Education nor the Superintendent of Public Instruction may waive any provision of this section.

SEC. 8. Section 42239.15 of the Education Code is repealed.

SEC. 9. Section 52890 of the Education Code is amended to read:

52890. Each school district and school that submits a school-based motivation and maintenance program plan pursuant to Article 7 (commencing with Section 54720) of Chapter 9 of Part 29, as that article read on January 1, 2004, shall include in the plan a description of the manner in which it will utilize outreach consultants. For purposes of this article, each outreach consultant, at a minimum, shall do all of the following:

(a) Possess a Dropout Prevention Specialist Certificate from a California State University, or enroll in a Dropout Prevention Specialist Certificate program within 90 days of the date of hire, except that outreach consultants employed on or before January 1, 2004, are exempt from this requirement.

(b) Demonstrate knowledge of local alternative educational programs and employ those programs to respond to the differential needs and unique learning styles of pupils.

(c) Demonstrate knowledge of local community agencies and community programs to recruit those agencies and programs to assist in the physical or psychological remediation of pupils.

(d) Utilize local school programs, options, and opportunities to assist pupils in locating, securing, or retaining employment.

(e) Utilize techniques that enhance interpersonal communication, self-understanding, self-disclosure, and depth-level sharing.

(f) Employ appropriate methods to create circumstances necessary so that change is permitted and encouraged in individuals, programs, and institutions.

(g) Be responsible for supervising, instructing, conducting negotiations with, and advising pupils and adults.

SEC. 10. Section 52891 of the Education Code is repealed.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to address the special needs of pupils by supporting supplemental instructional programs as soon as possible, it is necessary that this act take effect immediately.

Approved _____, 2005

Governor